

386 Body Worn Camera Policy

386.1 Purpose

The La Crescent Police Department has equipped the four (4) primary marked squad cars with in-squad video recording equipment. A component of the video system includes the operator of the vehicle to wear a Body Worn Camera (BWC). The purpose of this policy is to provide guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by the BWC system as prescribed by law.

386.1.1 DEFINITIONS

Activate – Any process causing the BWC system to transmit or store audio-visual signals.

Body Worn Camera (BWC) – A device worn by a LEO that is capable of both video and audio recordings of the LEO's activities and interactions with others or collecting digital multimedia evidence as part of an investigation as provided in Minn. Stat. § 13.825.

Law Enforcement Operator (LEO) – Primarily a licensed Peace Officer but on occasion may be a non-licensed representative of the La Crescent Police Department who is authorized and assigned to operate BWC equipment.

MGDPA – Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13.

PODPA – Peace Officer Discipline Procedures Act, Minnesota Statute, Section 626.89

BWC Administrator – Chief of Police, typically a Sergeant or designee, who assigns, tracks and maintains BWC equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor.

BWC Technician – Personnel certified or trained in the operational use, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge and evidentiary procedures.

Recorded Media – Audio/visual signals that are recorded or stored.

Records Retention Schedule – Refers to the General Records Retention schedule set by Minnesota Cities, City of La Crescent Data Practice Policy and Minnesota Statute, Chapter 13.

386.2 POLICY

It is the goal of the La Crescent Police Department to use BWC technology to effectively fulfill the Department's mission and to ensure these systems are used securely, efficiently and in compliance with the law. The BWC is not intended to be used for the purpose of surveillance of Officers or initiating disciplinary action against an Officer.

386.3 BWC Operational Objectives

The La Crescent Police Department has adopted the use of BWC to accomplish the following objectives:

- A. To enhance Law Enforcement Officer (LEO) safety.
- B. To document statements and events during the course of an incident.
- C. To enhance the LEO's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation / presentation.
- D. To preserve visual and audio information for use in current and future investigation.
- E. To provide a tool for self-critique and field evaluation during LEO training.
- F. To enhance the public trust by preserving factual representations of LEO-public/citizen interactions in the form of recorded media.
- G. To assist with the defense of civil actions against LEOs and the City of La Crescent.
- H. To assist with the training and evaluation of Officers.

386.4 LEO Responsibilities

Law Enforcement Officer safety shall be the primary consideration for the use and activation of the BWC system. LEOs that are issued a BWC will wear the BWC as part of their uniform and operate and use them consistently with this policy. LEOs may use only Department issued BWCs in the performance of official duties for the La Crescent Police Department or when otherwise performing authorized law enforcement services as an employee of this Department.

Inspection and general maintenance of the BWC equipment shall be the responsibility of the LEO to whom the BWC is assigned and performed at the beginning of each shift. If the BWC system is malfunctioning, damaged or stolen, the LEO shall, as soon as reasonably possible, notify a supervisor. Further, the LEO shall obtain a functioning BWC as soon as reasonably practicable. Supervisors shall, as soon as reasonably possible, take action to address malfunctions and document the steps taken.

386.5 Documenting BWC Use

LEOs must document BWC use and non-use as follows:

- A. Whenever a LEO makes a recording, the existence of the recording shall be documented in the LEO's report or Computer Aided Dispatch (CAD) record/other documentation of the incident.
- B. Whenever a LEO fails to record an incident that should be recorded under this policy or captures only a part of the activity, the LEO must document the circumstances and reasons for not recording in the LEO's report or CAD record/other documentation of the incident.

The use of BWC is optional while engaged in extra-duty employment. A LEO who chooses to wear a BWC while engaged in extra-duty employment is not required to activate the BWC for every contact made. However, such Officer shall be expected to activate the BWC if a situation or incident occurs which would otherwise require activation, when safe to do so. The BWC shall not be worn if/when LEOs are engaged in non-duty employment.

The Department will maintain the following records and documents relating to BWC use, which are classified as public data:

- A. The total number of BWCs owned or maintained by an agency;
- B. A daily record of the total number of BWCs actually deployed and used by Officers;

- C. The total amount of recorded BWC data collected and maintained; and
- D. This policy, together with the Records Retention Schedule.

386.5.1 Required Activation of the BWC

This policy is not intended to describe every possible situation in which the BWC system may be used, although there are many situations where its use is appropriate. A LEO may activate the system at any dispatched call, or view or contact in which its use is appropriate.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, even when the incident may be outside of the video range, the LEO is encouraged to activate the BWC to capture the audio portion of the incident.

LEO need not activate the BWC system when it would be unsafe, impossible or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in this policy. LEOs shall activate the BWC system when anticipating that they will be involved in, or become involved in, or witness other Officers of this Department involved in the following circumstances:

- *Terry Stop* of a pedestrian or motorist
- Priority responses
- Vehicle pursuit
- Searches, seizures or arrests
- Vehicle searches
- Physical or verbal confrontations
- Use of force
- Crimes in progress
- When ordered by a supervisor for proper purposes, or
- Any situation or incident that the Officer, through the training and experience, believes should be audibly and/or visually preserved, unless such recording is otherwise prohibited.
- When an employee is the victim, witness, or subject of a criminal investigation.

LEOs may, in the exercise of sound discretion, determine to use their BWCs to take recorded statements from persons, believed to be victims of and witnesses to crimes, and the persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

LEOs should use their BWCs or in-squad audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails.

LEOs should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the LEO that such privacy may outweigh any legitimate law enforcement interest in recording.

Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no

longer fit the criteria for recording. LEOs have discretion to record or not record general citizen contacts.

In addition, LEOs need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value. LEOs have no affirmative duty to inform people that a BWC system is being operated or that the individual is being recorded.

386.5.2 Cessation of recording

Once activated, the BWC system should remain on until the incident has concluded unless:

- A. The incident or event is of such duration that the BWC is deactivated to conserve power or the storage capacity;
- B. The Officer does not reasonably believe that deactivation will result in the loss of critical evidence;
- C. Deactivation is reasonable and necessary to protect the safety of the Officer or others;
- D. Deactivation is approved or ordered by a supervisor or Officer having charge of a scene; or
- E. Deactivation is necessary to protect the identity of persons or other data entitled to protection under the MGDPA or other law.

For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused or the audio muted to exchange information with other LEOs, legal counsel, or the lens obstructed to avoid capturing images of undercover Officers, informants, or citizens where based on the training, experience and judgement of the Officer, a recording would not be appropriate or consistent with this policy. The intention to pause and resume the recording (or to mute audio or obstruct the lens) will be noted by the LEO either verbally on the BWC or in a written report. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.

386.5.3 Prohibited Recording;

- A. A BWC shall not be activated with regard to interactions solely among other employees.
- B. The BWC shall not be used to record non-work related activity.
- C. LEOs shall not use any external device to record media that has been captured by the BWC, nor shall they allow any person to record such media.
- D. LEOs will cease recording once they have entered the sally port at the place of detention.

386.5.4 Supervisor Responsibilities

At reasonable intervals, supervisors should validate that:

- A. LEOs are using their BWCs in accordance with Department policies and procedures.
- B. Logs reflect the proper chain of custody, including:
 - 1. The tracking number of the BWC system media
 - 2. The date it was issued.
 - 3. The LEO to whom it was issued.
 - 4. The date it was submitted.
 - 5. LEO submitting the media
 - 6. Holds for evidence indication and tagging as required.
- C. It is recommended that the operation of BWC systems by new employees is assisted and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the BWC system and the applicable policies and procedures.

When an incident arises that requires the immediate retrieval of the recorded media. (e.g., serious crime scenes, Peace Officer involved shootings, Department-involved motor vehicle collisions), a supervisor or delegate should respond to the scene and ensure that recorded media is secured in accordance with Department policy. The media shall be processed and retained in accordance with current policy and procedures.

386.5.5 Downloading and Labeling BWC / MVR Data

- A. Each LEO using a BWC is responsible for transferring or assuring the proper transfer of the data from his/ her BWC by placing it into the docking station by the end of that LEO's shift. However, if the LEO is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or delegate shall take custody of the LEO's BWC and assume the responsibility for transferring the data from it.
- B. LEO should label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. LEO should assign as many of the following labels as are applicable to each file:
 - 1. Arrest/Investigation – The video involves the physical arrest of an individual and / or the transport of an individual to jail. The video is part of an investigation that the LEO believes is necessary to retain.
 - 2. Citation – The recording is of an event surrounding the issuance of a citation.
 - 3. Department – The recording is sensitive in nature or the Officer believes it is important to save for future use, such as Internal Investigations and potential complaints against an Officer or the Department. This label is also used when the event involved the application of force by an LEO or the discharge of a firearm. An Officer may use this category in addition to another category.

4. Interview – the recording is of an interview of a suspect, witness, or victim by an Officer.
5. Pending Review – Manufacturer’s label for a video which may have technical issues regarding the recording.
6. Not Evidence – The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general public /citizen contacts and unintentionally recorded footage are not evidence.

C. Labelling may be corrected or amended based on additional information.

386.6 Access to BWC Data

All recorded media, recorded images and audio recording are the property of the La Crescent Police Department and are government data subject to the provisions of the MGDPA. Dissemination outside of the Department is strictly prohibited except to the extent permitted or required under the MGDPA, City of La Crescent Data Practices Policy, or any other applicable law.

- A. Data Subjects. Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
 1. Any person or entity whose image or voice is documented in the data.
 2. The Officer who collected the data.
 3. Any other Officer whose voice or image is documented in the data, regardless of whether that Officer is or can be identified by the recording.
- B. BWC data are presumptive private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:
 1. BWC data pertaining to people, businesses or other entities are presumed to be private or nonpublic data.
 2. Some BWC data are classified as confidential (see C. below)
 3. Some BWC data are classified as public (see D. below)
- C. Confidential data. BWC data that are collected or created as part of an active criminal investigation are governed by Minn. Stat. § 13.82 and are classified as confidential or protected nonpublic data. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.
- D. Public data. The following BWC data are public:
 1. Data that documents the discharge of a firearm by a Peace Officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
 2. Data that documents the use of force by a Peace Officer that results in substantial bodily harm.
 3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a Peace Officer) who has not consented to the public release must be redacted. In addition, any data on Undercover Officers must be redacted.
 4. Data that are public personnel data under Minn. Stat. § 13.43, subd. 2(5).

However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82 (e.g., certain victims, witnesses, and others) or other applicable law should not be released even if it would otherwise fit into one of the public categories listed above.

- E. Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to the BWC data to the Chief of Police or the data practices designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular:
 - 1. An individual who is the subject of the data has access to the data, including data on other individuals who are the subject of the recording, but access shall not be granted:
 - a. If the data were collected or created as part of an active investigation.
 - b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.
 - 2. Unless the data are part of an active investigation, an individual data subject may request a copy of the recording, subject to the following guidelines on redaction:
 - a. Data on other individuals in the recording who do not consent to the release must be redacted.
 - b. Data that would identify Undercover Officers must be redacted.
 - c. Data on other Officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.
- F. Access by Peace Officers and law enforcement employees. No employee may have access to the Department's BWC data except for legitimate law enforcement or data administration purposes.
 - 1. Officer may access and view stored BWC video only when there is a business need for doing so, which includes the following:
 - a. For use when preparing reports or statements or providing testimony;
 - b. To assess proper functioning of BWC systems;
 - c. By Department Investigators / Officer(s) assigned to a related criminal investigation, or after approval of a supervisor, for official investigations;
 - d. By a LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment;
 - e. When reasonable and necessary for the Officer to perform the essential functions of his/her job or to defend against allegations of substandard performance or misconduct.

To prevent damage to, or alteration of the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the Department. When reasonably possible, a copy of the original media should be used for viewing to preserve the original media.

LEOs shall not make a copy of any BWC data except in compliance with this policy and Department record keeping procedures.

The Department shall restrict by password protection access to all BWC data and shall maintain an electronic record of the data, time and name of each employee who accesses the data.

In no event shall any BWC data be used or shown for the purpose of ridiculing or embarrassing any employee or member of the public.

- G. Other authorized disclosures of data. LEOs may display portions of BWC footage to witnesses as necessary for the purpose of investigations as allowed by Minn. Stat. § 13.82. LEOs should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing audio but not displaying video. In addition,
1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
 2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
 3. With the approval of the Chief of Police, the Department may make any data classified as confidential or protected nonpublic pursuant to Minn. Stat. § 13.82, subd. 7 accessible to any person, agency, or the public if the Department determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest, consistent with Minn. Stat. § 13.82, subd. 15.

386.7 Agency Use of Data

Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigation of a specific incident that has given rise to a complaint or concern about LEO misconduct or performance. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline. LEOs should contact their supervisor to discuss retaining and using BWC data for training purposes. LEO objections to preserving or using certain data for such purposes will be considered on a case-by-case basis. Field training Officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on trainees' performance.

386.8 BWC Data Retention

- A. All BWC data shall be retained for a minimum of 90 days.
- B. BWC data must be maintained for at least one year and destroyed according to the Records Retention Schedule if:
 1. The data documents the discharge of a firearm by a Peace Officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous;

2. The data documents the use of force by a Peace Officer that results in substantial bodily harm; or
 3. The data documents circumstances giving rise to a formal complaint against the Officer.
- C. Other data having evidentiary value shall be retained for the period specified in the Data Retention Schedule.
 - D. Subject to part E (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
 - E. Upon written request by a BWC data subject, the Department shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The Department will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
 - F. The Department will ensure this policy is consistent with the City of La Crescent Data Practices Policy.

386.9 System Operations Standards

- A. BWC system use should be based on LEO safety requirements and device manufacturer recommendations.
- B. The BWC system should be configured to minimally record no more than 30 seconds prior to an activation.
- C. The BWC system should not be configured to record audio data occurring prior to activation.
- D. LEO using digital transmitters that are individually synchronized to their BWC should activate both audio and video recording when responding in a support capacity in order to obtain additional perspectives of the incident scene.
- E. With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used with the law enforcement vehicle in order to intentionally interfere with the capabilities of the BWC System.
- F. LEO shall not intentionally erase, alter, reuse, modify or tamper with BWC data. Only a supervisor, BWC administrator or designee may erase and reissue previously recorded media in accordance with this policy.
- G. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this Department shall obtain an independent biennial audit of its BWC program.

386.10 BWC Administrator Responsibilities

The BWC Administrator or designee is responsible for:

- A. Retrieving, storing, erasing and duplicating of all recorded media.
- B. Collecting all completed media for oversight.
 - 1. Ensures it is stored in a secured location with authorized controlled access.
 - 2. Makes appropriate entries in the chain of custody log.
- C. Erasing of media:
 - 1. Pursuant to a court order.
 - 2. In accordance with established record retention policies.
- D. Ensuring that an adequate supply of recording media is available.
- E. Managing the long-term storage and back-up of media that has been deemed to be of evidentiary value in accordance with the Department evidence storage protocols and the Records Retention Schedule.

386.11 Training

Users of the BWC system and supervisors shall successfully complete an approved course of instruction prior to the being deployed with the BWC system in operational settings.

386.12 Use of Personal Digital Recording Device

LEOs are prohibited from using personal recording equipment in lieu of their Department-issued BWCs while on-duty. However, the Department recognizes that, in rare or unforeseen situations, it may be necessary for LEOs to use their personal digital recording equipment to record or collect evidence. In such an event, the LEO must upload that media into Department electronic records management system (LETG) or saved to a DVD and placed into evidence in accordance with Department policy and procedure.

386.13 Compliance

Supervisors shall monitor for compliance with the policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.